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10/699,024	10/31/2003	Jagir Razak Jainul Abdeen Hussan	JP920030152US1	2138
36903 7590 12/20/2011 IBM ENDICOTT (ANTHONY ENGLAND) LAW OFFICE OF ANTHONY ENGLAND 3112 Windsor Road, Suite A, Box 334 AUSTIN, TX 78703				
EXAMINER				
WHALEY, PABLO S				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/699,024
Filing Date: October 31, 2003
Appellant(s): ABDEEN HUSSAN, JAGIR RAZAK JAINUL

ANTHONY V.S. ENGLAND
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

Responsive to the reply brief under 37 CFR **41.41** filed 08/15/2011, a supplemental Examiner's Answer is set forth below:

The following supplemental Examiner's Answer is provided pursuant to 37 CFR **41.43(a)**, without raising any new grounds of rejection.

The reply brief argues (on pages 1-2) that the Examiner's Answer improperly included a new grounds of rejection. In particular, Appellant references page 21 of the Examiner's Answer, which states the following:

"In response to appellant's arguments, on pages 21, regarding KSR International Co. v. Teleflex Inc., 550 U.S. 398 (2007), the rejection of step viii) has been modified after a further review of the teachings of Rigoutsos, who provides all the necessary teachings (and suggestions) to make a case for prima facie obviousness with regards to the step of "updating" first and second parameters of match-set data, as set forth above. Accordingly, appellant's arguments on this point are moot."

For purposes of clarification, it is noted that the Appeal Brief, filed 03/07/2011, argued (on page 21) that Rigoutsos does not teach "step viii)... wherein the first position parameter of each match-set data structure entry denotes a location in the sequence and the second position parameter of each match-set data structure entry denotes an offset from the location," as claimed, and does not teach "after receiving the selection the computer system updates the first and second parameters of the entries in the match-set data structure, the updating being responsive to the position of the selected at least first one of the replets," as claimed.

In response, it is the Examiner's position that the Examiner's Answer did not introduce any new grounds of rejections. MPEP 1207.03, Part III, which states the following: *"There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).*

It is the Examiner's position that any differences between the Final Office action and the Examiner's Answer were nothing more than a change in the discussion of the teachings of Rigoutsos in response to the issues raised by Appellant in the Appeal Brief, as discussed above, or a change in the rationale in support for combining the rejections of record. For example, after further consideration of Rigoutsos, it was determined that the totality of the teachings of Rigoutsos makes obvious the use of offset information having a first position parameter and a second position parameter (as discussed on page 10 of the Examiner's Answer) and makes obvious the step of updating parameters (as discussed on page 15 of the Examiner's Answer). In other words, the basic thrust of the rejection has remained the same in the Examiner's Answer, as supported by MPEP 1207.03, Part III.

The reply brief argues (on pages 2-3) that neither the Examiner's Amendment nor the final Office action addressed the limitation "the first position parameter of each match-set data structure entry denotes a location in the sequence and the second position parameter of each match- set data structure entry denotes an offset from the location", as in claims 14, 27, and 28 (step viii). In response, see the Examiner's Answer on pages 14-15 and the final Office action (page 10).

With regards to the additional arguments made in the reply brief, Appellant appears to simply be arguing the merits of the rejections of record set forth in the Examiner's Answer. Therefore, these issues are not being addressed in the supplemental Examiner's Answer since the merits of these rejections are the issues under Appeal and the Examiner's position has been made of record.

Appellant may file another reply brief in compliance with 37 CFR **41.41** within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR **1.136(a)** are not applicable to this two month time period. See 37 CFR **41.43(b)-(c)**.

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

[4]

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Whaley whose telephone number is (571)272-4425. The examiner can normally be reached between 11am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached at 571-272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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